

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JEROME DAMASCO,)
)
)
Plaintiff,) No. 10 CV 3063
v.)
)
)
CLEARWIRE CORPORATION,) Judge Zagel
)
)
Defendant.)

**DEFENDANT'S MOTION TO CONTINUE HEARING DATE SET FOR NOV. 9, 2010
ON PLAINTIFF'S MOTION FOR RECONSIDERATION OF THE COURT'S SEPT. 2,
2010 ORDER DISMISSED THIS CASE**

NOW COMES the Defendant, CLEARWIRE CORPORATION, by its attorneys, Ice Miller LLP, and hereby requests the Court to continue the motion hearing date set for November 9, 2010 on Plaintiff's Motion to Reconsider (Dkt. #24) the Court's Order of September 2, 2010 (Dkt. #22) dismissing this case. In support of this Motion, Clearwire states as follows:

1. On September 2, 2010, the Court issued a Memorandum Opinion and Order dismissing this case.
 2. On September 9, 2010, Plaintiff filed a motion for reconsideration of the Court's Order of September 2, 2010 dismissing this case.
 3. Clearwire filed its response to the Motion for Reconsideration on September 27, 2010.
 4. Plaintiff presented his Motion for Reconsideration to the Court on September 30, 2010, and on that date the Court entered an order (Dkt. #28) providing that Plaintiff's reply was to be filed by October 8, 2010, and further stating "Motion hearing set for 11/9/10 at 10:00 AM." Clearwire is unsure of whether the order indicates that the Court intends to hear oral argument

from the Parties on the Motion for Reconsideration on November 9, 2010 or whether this is merely the date on which the Court intends to announce its decision.

5. The Court verbally granted Clearwire leave to file a surreply on October 15, 2010, and Clearwire filed its surreply (Dkt. #30) on October 27, 2010. The Motion for Reconsideration is fully briefed.

6. Counsel for Clearwire will be out of town on November 9, 2010 on a vacation trip and will not be returning until the evening of November 10, 2010. If the Court wishes to hear argument from the Parties on the Motion for Reconsideration, Clearwire would request that any argument on the Motion for Reconsideration be rescheduled to a date after November 10, 2010. Clearwire does not believe that argument is necessary on the Motion for Reconsideration, but should the Court desire to hear further from counsel for the parties, it requests that argument on the Motion be rescheduled to a date after November 10, 2010. If the Court does not intend to hear argument from the parties on November 10, 2010, and only intends to announce its decision, there is no need, from Clearwire's standpoint, to continue the hearing date.

Respectfully submitted,

CLEARWIRE CORPORATION

s/Bart T. Murphy
By one of its attorneys

Bart T. Murphy (ARDC # 6181178)
Thomas J. Hayes
Ice Miller LLP
2300 Cabot Dr., Ste. 455
Lisle, IL 60532
(630) 955-6392

CERTIFICATE OF SERVICE

The undersigned, an attorney, states that on October 28, 2010, he caused the foregoing to be electronically filed with the Clerk of the United States District Court for the Northern District of Illinois using the Clerk's ECF/CM system which electronically served a copy of the foregoing on the following counsel for Plaintiff:

Michael J. McMorrow mjmcormorrow@edelson.com
Ryan D. Andrews randsrews@edelson.com

s/Bart T. Murphy

Bart T. Murphy
Ice Miller LLP
2300 Cabot Dr., Ste. 455
Lisle, IL 60532
(630) 955-6392

C/101599.1